

## JOHNSTON-HALL HOSPITAL AND DR. Z. V. JOHNSTON

MARCH 26 (legislative day, MARCH 5), 1942.—Ordered to be printed

Mr. BROWN, from the Committee on Claims, submitted the following

### REPORT

[To accompany H. R. 5363]

The Committee on Claims, to whom was referred the bill (H. R. 5363) for the relief of Johnston-Hall Hospital and Dr. Z. V. Johnston, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1786, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1786, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5363) for the relief of Johnston-Hall Hospital and Dr. Z. V. Johnston, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

At the end of bill add: “: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.”

The purpose of the proposed legislation is to pay to the Johnston-Hall Hospital, Calhoun, Ga., the sum of \$65, and to Dr. Z. V. Johnston, Calhoun, Ga., the sum of \$75, as compensation for emergency operation and hospitalization necessary in the case of Corp. Henry Grady Lay, Jr., Battery H, Two Hundred and Fourteenth Coast Artillery, on February 22, 1941, by direction of the post surgeon.

#### STATEMENT OF FACTS

The facts will be found fully set forth in a report from the Honorable Henry L. Stimson, Secretary of War, dated November 19, 1941, addressed to Hon. Dan R. McGehee, chairman of this committee. The report concludes, “In view of all the circumstances, the War Department considers that this case possesses a special merit which warrants favorable action not accorded in the majority of cases considered under the restrictive provisions of successive appropriation acts.”

Your committee concur in the recommendation of the War Department. Appended hereto is the report of the War Department, together with other pertinent evidence.

WAR DEPARTMENT,  
Washington, November 19, 1941.

HON. DAN R. McGEHEE,

*Chairman of Committee on Claims, House of Representatives.*

DEAR MR. McGEHEE: The War Department favors the enactment of H. R. 5363, a bill for the relief of Johnston-Hall Hospital, Calhoun, Ga., and Dr. Z. V. Johnston, Calhoun, Ga. This bill provides for compensation to be authorized for payment to the Johnston-Hall Hospital, of Calhoun, Ga., in the amount of \$65 and Dr. Z. V. Johnston in the amount of \$75 for services rendered to a soldier on pass for more than 24 hours from Camp Stewart, Ga.

For many years provisions have appeared in annual appropriation acts which exclude treatment by private physician in private hospital of military personnel on furlough, pass, or leave of over 24 hours from being made an obligation of the Government.

The War Department has consistently opposed legislation which would tend to abrogate this rule.

The position of the War Department has been assumed on two principal theories: First, that where a soldier or officer chooses to put himself out of reach of Government medical attendance he cannot obligate the Government for such medical expenses as he may incur by his act; second, payment of all claims of this nature as a class would tend to establish a precedent for permitting soldiers to choose their own medical attendants and hospitals rather than the regular medical service of the Army. Thus, the Government might become liable for medical attendance by charlatans or other unnecessary or improper medical attendants and hospitalization of the soldier's own choosing.

In the instant case Corp. Henry Grady Lay, 20448880, Battery H, Two Hundred and Fourteenth Coast Artillery (Antiaircraft), Camp Stewart, Ga., left the camp on pass on February 22, 1941, at 12 noon, the pass expiring at 11 p. m., February 23, 1941. While en route to Calhoun, Ga., 340 miles from Camp Stewart, Lay became ill. Upon reaching Calhoun he immediately consulted Dr. Z. V. Johnston, a civilian physician, who diagnosed Lay's illness as acute appendicitis. Dr. Johnston phoned the post surgeon at Camp Stewart and advised him of his diagnosis and findings. The post surgeon advised Dr. Johnston to operate without delay. Lay was operated upon 1½ hours after his arrival at Calhoun. He was discharged from the hospital March 4, 1941, and rejoined his organization. Bills rendered by Dr. Johnston and the hospital to the surgeon of the Fourth Corps Area were disapproved by the Surgeon General on the grounds that the portion of the military appropriations act referred to above does not permit such payments.

This soldier was on a pass for 6 hours in excess of the limit and, except for boarding a train, did nothing voluntarily to put himself out of reach of Government medical care. Particularly he did not engage in any hazardous amusement or act that subjected him to the illness he suffered. When he was taken ill his condition was such that he could not put himself in the care of the Army Medical Service. He did the only reasonable thing that a man could do under the circumstances. He went to a reputable physician and surgeon, who contacted the post surgeon at Camp Stewart, Ga., who in turn authorized Dr. Johnston to perform an operation upon the soldier. Thereafter the soldier was successfully treated by Dr. Johnston for an illness that might have cost his life if left untreated.

In view of all the circumstances the War Department considers that this case possesses a special merit, which warrants favorable action not accorded in the majority of cases considered under the restrictive provisions of successive appropriation acts.

Sincerely yours,

HENRY L. STIMSON,  
*Secretary of War.*